

<b>Title 86   Part 100   Section 100.2590   Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers</b>
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**TITLE 86: REVENUE**

**PART 100  
INCOME TAX**

**Section 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers**

- a) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation. By virtue of the provisions of federal law quoted in subsections (a)(1) through (4) below, compensation that would otherwise be subject to Illinois income taxation and withholding by virtue of IITA Sections 302(a) and 304(a)(2)(B) is subtracted from adjusted gross income in determining Illinois base income pursuant to IITA Section 203(a)(2)(N) and is not subject to Illinois income tax withholding. This subtraction is taken on form IL-1040 on the line entitled "Other subtractions." The statutory basis of the subtraction under Illinois law is IITA Section 203(a)(2)(N) which provides a subtraction from adjusted gross income for *an amount equal to all amounts included in such total which are exempt from taxation by this State . . . by reason of the . . . statutes of the United States.*
  - 1) 49 USCA 11502(a) states that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title to an employee who performs regularly assigned duties as such an employee on a railroad in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.
  - 2) 49 USCA 14503(a)(1) states that no part of the compensation paid by a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 135 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more states as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.
  - 3) 46 USCA 11108 states that no part of the compensation paid by a merchant mariner to an employee who performs his regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision of the employee's residence.
  - 4) 49 USCA 40116(f)(2) states that no part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an

employee on an aircraft in more than one state, shall be subject to the income tax laws of any state or subdivision thereof other than the state or subdivision thereof of such employee's residence and the state or subdivision thereof in which such employee earns more than 50% of the compensation paid by the carrier to such employee.

- b) 49 USCA 11108 provides that the State of Illinois may not require the withholding of Illinois income taxes from certain employees of water carriers and merchant mariners. 49 USCA 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. However, this provision of federal law does not affect the liability of these employees for Illinois income taxes, nor does it affect the obligation of such employees to make payments of estimated income taxes as required by IITA Section 803. The provision of federal law merely affects the authority of the State of Illinois to require withholding by employers of such employees.

(Source: Amended at 25 Ill Reg. 6687, effective May 9, 2001)